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Attorneys for Defendants
The Pep Boys Manny Moe & Jack of California; and
The Pep Boys – Manny, Moe & Jack

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Art Navarro, individually, and on behalf of
all others similarly situated, and as an
aggrieved employee pursuant to the Private
Attorneys General Act of 2004,

Plaintiff,

vs.

The Pep Boys Manny Moe & Jack of
California, a California Corporation, The
Pep Boys - Manny, Moe & Jack, a
Pennsylvania Corporation, and DOES 1-25
inclusive,

Defendants.

Case No. 07-2633 SI

**DEFENDANTS' NOTICE OF MOTION
AND MOTION TO STAY OR TRANSFER
THIS ACTION, OR, IN THE
ALTERNATIVE, TO DISMISS
PLAINTIFF'S FIRST, SECOND, THIRD,
FOURTH, FIFTH, SEVENTH, NINTH,
ELEVENTH, TWELFTH AND
THIRTEENTH CLAIMS FOR RELIEF**

Judge: Hon. Susan Illston
Date: September 21, 2007
Time: 9:00 a.m.
Room: 10

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on September 21, 2007, at 9:00 a.m., or as soon thereafter
as this matter may be heard in Courtroom 10 of the United States District Court for the Northern
District of California, 450 Golden Gate Avenue, San Francisco, California 94102-3483, before

1 the Honorable Susan Illston, Defendants The Pep Boys Manny Moe & Jack of California and The
 2 Pep Boys – Manny, Moe & Jack (“Defendants”) will and hereby do move for an order staying
 3 this action or transferring this action to the United States District Court for the Central District of
 4 California or, in the alternative, dismissing (1) the first claim for relief for failure to provide rest
 5 periods, (2) the second claim for relief for failure to provide meal periods, (3) the third claim for
 6 relief for waiting time penalties; (4) the fourth claim for relief for failure to pay wages; (5) the
 7 fifth claim for relief for failure to pay minimum wages; (6) the seventh claim for relief for failure
 8 to pay overtime wages; (7) the ninth claim for relief for alleged failure to provide accurate
 9 itemized wage statements, (8) the eleventh claim for relief for uniform violations, (9) the twelfth
 10 claim for relief for conversion of wages, and (10) the thirteenth claim for relief for Unlawful
 11 Business Practices to the extent premised on California law, pursuant to the “first-to-file” rule set
 12 forth in *Alltrade, Inc. v. Uniweld Products, Inc.*, 946 F.2d 622, 625, 628-629 (9th Cir. 1991).

13 This motion is brought on the ground that first-filed actions now pending before the
 14 United States District Court for the Central District of California entitled *Aros v. The Pep Boys*
 15 *Manny Moe and Jack of California*, Case No. 07-cv-02033 (“*Aros*” action) and *McEwen v. The*
 16 *Pep Boys Manny, Moe & Jack of California; The Pep Boys Manny, Moe & Jack* (“*McEwen*”
 17 action), Case No. 07-cv-01755, include claims identical or substantially similar to those asserted
 18 by Plaintiff Art Navarro in the First Amended Complaint and concerns similar parties and
 19 requests for relief.

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1 This motion is based on this notice, the accompanying memorandum of points and
2 authorities in support of the motion, the accompanying Declaration of M. Michael Cole and all
3 exhibits attached thereto, the accompanying proposed order, the Court's file in this case, and on
4 all other matters which may be judicially noticed or adduced at the hearing of this matter.

5 Dated: July 13, 2007

MORGAN, LEWIS & BOCKIUS LLP

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7 By /s/
8 M. Michael Cole
9 Attorneys for Defendants
10 The Pep Boys Manny Moe & Jack of
11 California; The Pep Boys – Manny, Moe
12 & Jack
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